

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 : Docket #23-MJ-2638
 :
 Plaintiff, :
 :
 v. :
 :
 CHARLIE JAVICE, : New York, New York
 :
 Defendant. : April 4, 2023

-----: Conference

TRANSCRIPT AND STATUS CONFERENCE PROCEEDINGS
BEFORE THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
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1 THE DEPUTY CLERK: The court now calls the
2 United States of America versus Charlie Javice; case
3 number 23MJ2638.

4 Counsel, please make your appearances for
5 the record.

6 MS. McLEOD: Good afternoon, Your Honor.
7 Dina McLeod and Micah Fergenson for the government.

8 THE COURT: Ms. McLeod, Mr. Fergenson.
9 Good afternoon.

10 MS. SHAH: Good afternoon, Your Honor.
11 Maaren Shah from Quinn Emmanuel for defendant,
12 Charlie Javice. I'm here with my partner, JP
13 Kernisan. And my partner, Alex Spiro couldn't be
14 here today, but will be appearing in the case also.

15 Nice to see you again, your Honor.

16 THE COURT: Ms. Kernigan. Ms. Shah, I
17 don't usually see you in this courtroom; good
18 afternoon.

19 MS. SHAH: Good afternoon.

20 THE COURT: And Ms. Javice, am I
21 pronouncing your last name correctly?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: You don't have to stand up.
24 You can all be seated. I am Magistrate Judge Moses.

25 For the record, not that I have any doubt

1 about this, please confirm that you speak and
2 understand English.

3 THE DEFENDANT: I do. Yes, ma'am.

4 THE COURT: May I have the date and time of
5 the defendant's arrest, please?

6 MS. McLEOD: Yes, Your Honor. The
7 defendant was arrested at approximately 6:20 p.m.
8 yesterday at Newark Liberty.

9 THE COURT: Thank you.

10 So, Ms. Javice, the purpose of our
11 proceeding this afternoon is to advise you of
12 certain rights that you have, to inform you of the
13 charges against you, to consider whether counsel
14 shall be appointed for you, and to decide under what
15 conditions, if any, you shall be released pending
16 trial.

17 I'm going to begin by explaining some of
18 your constitutional rights. You have the right to
19 remain silent. You are not required to make any
20 statements to law enforcement authorities, even if
21 you've already spoken to the authorities, you are
22 not required to make any further statements.
23 Anything that you do say can be used against you.
24 You have the right to be released, either
25 conditionally or unconditionally pending trial,

1 unless I determine that there are no conditions that
2 would reasonably assure your presence at future
3 court appearances and the safety of the community.

4 If you are a foreign national, you have the
5 right to request that a consular officer from your
6 country of origin be notified of your arrest. In
7 some cases, a treaty or other agreement may require
8 the U.S. government to give that notification,
9 whether you request it or not.

10 I am informed that you are a dual citizen
11 of the United States and France. I am further
12 informed that France is not a mandatory notification
13 nation. So that notification will not be made
14 automatically, but you may request that that
15 notification be given.

16 You have the right to be represented by an
17 attorney during all court proceedings, including
18 this one, and during any questioning by the
19 authorities. If you cannot afford an attorney, I
20 will appoint one today to represent you.

21 Ms. Shah, your presence here suggests to me
22 that there is not going to be an application for
23 appointed counsel; is that correct?

24 MS. SHAH: Correct, Your Honor.

25 THE COURT: So we will then move on. I

1 have been given a copy of the sealed complaint in
2 this matter, which I'm sure you've seen. I will
3 review it for you briefly. This is the document
4 that contains the criminal charges against you.

5 You are charged in Count 1 with conspiracy
6 to commit wire and bank fraud, in violation of 18
7 United States Code § 1349.

8 You are charged in Count 2 with wire fraud,
9 in violation of 18 United States Code §§ 1343 and 2.

10 You are charged in Count 3 with bank fraud,
11 in violation of 18 United States Code §§ 1344 and 2.

12 And you are charged in Count 4 with
13 securities fraud, in violation of Title 15, United
14 States Code, §§ 78j(b) and 78f(f), and also Title 17
15 of the Code of Federal Regulations, § 240.10(b)(5)
16 and Title 18, United States Code § 2.

17 Counsel, have you received a copy of the
18 complaint and had an opportunity to review it with
19 your client?

20 MS. SHAH: Yes, Your Honor.

21 THE COURT: And do you waive its detailed
22 public reading?

23 MS. SHAH: Yes, Your Honor.

24 THE COURT: Okay. Because you have been
25 charged by Complaint, Ms. Javice, you are entitled

1 to a preliminary hearing. At the preliminary
2 hearing, the government will have the burden of
3 establishing that there is probable cause to believe
4 that the crimes for which you are being charged were
5 committed and that you are the person who committed
6 them.

7 If you are in custody, you have a right to
8 that hearing within 14 days. If you're out of
9 custody, you have a right to that hearing within 21
10 days.

11 However, no preliminary hearing will be
12 held if before the date on which it is scheduled you
13 are indicted by a Grand Jury or an Information is
14 filed against you by the government. I'll set a
15 preliminary hearing date before we conclude our
16 proceedings this afternoon. But what I now wish to
17 turn to is the issue of bail, or to be more formal,
18 conditions of release.

19 Have counsel discussed this?

20 MS. McLEOD: Yes, Your Honor. And we have
21 a joint proposed bail package.

22 THE COURT: Excellent. Who would like to
23 present that to me?

24 MS. McLEOD: I will, Your Honor.

25 THE COURT: Go ahead.

1 MS. McLEOD: The parties propose a \$2
2 million personal recognizance bond to be signed by
3 two financially responsible persons, to be secured
4 by the defendant's property. And I can give you the
5 address. It's the residence on the --

6 THE COURT: This is real estate?

7 MS. McLEOD: It's real estate. It's a home
8 in Miami.

9 THE COURT: Do you want to put that on the
10 record or not?

11 MS. SHAH: I think we'd prefer not, if
12 that's all right, but I think Your Honor has it in
13 front of you in the Pretrial report.

14 THE COURT: Is it the same address which is
15 listed in the Pretrial report?

16 MS. McLEOD: Yes, it's the one on the first
17 page of the Pretrial report.

18 THE COURT: Fine. And that's the
19 defendant's personal residence?

20 MS. McLEOD: Correct.

21 THE COURT: All right. So there will be
22 then what type of security?

23 MS. McLEOD: It will be secured by that
24 property.

25 THE COURT: All right. And is there a

1 mortgage on that property?

2 MS. McLEOD: There is.

3 THE COURT: And you're satisfied that
4 there's enough equity in the property to give the
5 government adequate security?

6 MS. McLEOD: Yes.

7 THE COURT: Okay. Are you trying to say
8 something or you're just standing up to stretch your
9 legs?

10 MS. SHAH: I'm just standing up to show
11 respect to Your Honor. I wasn't sure if you'd need
12 me again.

13 THE COURT: No, you're fine.

14 MS. SHAH: Thank you.

15 THE COURT: You can be seated. Go ahead.

16 MS. McLEOD: Regular pretrial supervision.

17 THE COURT: As directed?

18 MS. McLEOD: As directed.

19 THE COURT: Okay. Any travel restrictions?

20 MS. McLEOD: Southern -- SDNY, EDNY and the
21 Southern District of Florida. And all points in
22 between for travel for court appearances.

23 THE COURT: And she'll be supervised out of
24 Florida?

25 MS. McLEOD: That's our expectation.

1 THE COURT: Okay.

2 MS. McLEOD: Surrender all travel documents
3 and no new applications.

4 THE COURT: It's my understanding that both
5 the U.S. and the French passport are in law
6 enforcement custody; is that right?

7 MS. McLEOD: That's correct, Your Honor.

8 MS. SHAH: That's correct, Your Honor.

9 THE COURT: Got it.

10 MS. McLEOD: A curfew to be enforced by
11 location monitoring.

12 THE COURT: Curfew? Okay. Tell me why.

13 MS. McLEOD: The curfew, Your Honor --

14 THE COURT: I mean, usually it's a
15 different kinds of crime that calls for curfew.

16 MS. McLEOD: Yes. So that was to
17 mitigate --

18 THE COURT: I see you, Ms. Shah. I'll call
19 on you in a moment.

20 MS. SHAH: Thank you.

21 MS. McLEOD: Parkinson was to mitigate the
22 risk of flight here based on the defendant's dual
23 nationality.

24 THE COURT: What, airplanes only run at
25 night?

1 MS. McLEOD: Well, the curfew is to set
2 some parameters around the location monitoring.

3 THE COURT: It's not a time curfew.

4 MS. McLEOD: Well, it is a time curfew.
5 The curfew is to set a particular time in which she
6 must be in the home, but it provides a framework for
7 Pretrial to check in and make sure that she's there.
8 It's a way to -- the location monitoring enforces
9 the curfew.

10 THE COURT: I'm not entirely sure I follow.
11 If it's, let's say, an hour from her home to the
12 nearest international airport, if she were going to
13 make a run for it, which we all trust and hope she's
14 not, couldn't she do it at nine in the morning just
15 as easily as at one in the morning?

16 MS. McLEOD: I mean, I think that's right,
17 Your Honor. I think typically Pretrial likes not to
18 have standalone monitoring, which is one of the
19 reasons we asked for it. And in addition to set a
20 framework for the location monitoring. If the Court
21 wants to place standalone location monitoring, it
22 can. It is recommended by Pretrial as one of the
23 conditions.

24 THE COURT: Well, I've jumped on your words
25 a couple of times already. Why don't you give me

1 your pitch.

2 MS. McLEOD: And this is agreed upon. So
3 curfew to be enforced by location monitoring.

4 THE COURT: With the hours to be set by
5 Pretrial?

6 MS. McLEOD: Hours to be set in conjunction
7 with Pretrial, likely in the Southern District of
8 Florida.

9 THE COURT: All right. And the form of
10 location monitoring would also be up to Pretrial, so
11 not necessarily an ankle bracelet?

12 MS. McLEOD: I think that's right, Your
13 Honor.

14 THE COURT: Okay. Got it.

15 MS. SHAH: Your Honor, if I may be heard on
16 that point.

17 THE COURT: Sure.

18 MS. SHAH: Thank you. And as Ms. McLeod
19 noted, this was agreed, but although, as Your Honor
20 knows, I don't appear very often in this courtroom
21 before you, we are also under the understanding that
22 that condition was imposed because it is, I gather,
23 a standard framework. We have had discussions with
24 opposing counsel about thinking it's not necessary.
25 We would certainly prefer to proceed without a

1 curfew. We don't think it's justified by the
2 circumstances here. So if Your Honor is so
3 inclined --

4 THE COURT: Well, let me lay out what your
5 realistic choices may be, now that I understand the
6 lay of the land, so to speak. Pretrial services is
7 interested in not having the defendant be out of
8 electronic contact with them for long enough to make
9 a run for it. Not to put too fine a point on it.

10 One way of doing that is to have location
11 monitoring in the home that records when she's home
12 and when she's not, but doesn't tell Pretrial
13 services where she is when she's not there because
14 she's not wearing an ankle bracelet.

15 You kind of need a curfew, as Ms. McLeod
16 explained, to put a framework on that because if she
17 isn't required to be in the home at a certain hour
18 every evening, then what does Pretrial services do
19 with the fact that she's not in the home at any
20 given moment?

21 The other way to keep tabs on her would be
22 to put her in an ankle bracelet without a curfew.
23 But now she's wearing a hunk of ankle around -- a
24 hunk of metal around her ankle wherever she goes.

25 Now, neither of these is ideal from the

1 defendant's perspective, but it may well be that the
2 curfew with no ankle bracelet is considered the
3 lesser of two evils. Do you want to have a moment
4 to discuss that?

5 MS. SHAH: I believe, Your Honor, that we
6 would agree that the curfew and no ankle bracelet is
7 the lesser of the two evils here. And I don't want
8 to speak for my colleague on the other side of the
9 table. My understanding is that what was being
10 proposed was an ankle bracelet and a curfew. If
11 that's not the case, then the curfew is fine.

12 THE COURT: Let me get clarification.

13 MS. SHAH: Thank you.

14 THE COURT: Ms. McLeod.

15 MS. McLEOD: I think we would be fine with
16 the curfew to be enforced by -- at the discretion of
17 Pretrial. Often they would choose not to do GPS at
18 that point, but that's something that I think is
19 within their province.

20 THE COURT: All right. So what I could
21 order, and what the Assistant U.S. Attorney is
22 suggesting is that I put the curfew in place and
23 leave it up to Pretrial services as to the exact
24 form of electronic monitoring. This does not
25 guarantee no ankle bracelet, but it gives you a

1 decent chance of no ankle bracelet.

2 Are both sides reasonably accepting of that
3 compromise?

4 MS. McLEOD: Yes, Your Honor.

5 MS. SHAH: That's fine, Your Honor.

6 THE COURT: All right. Let's go on.

7 MS. McLEOD: No contact -- this is going to
8 be a long one. No contact with -- and I'm going to
9 give a number of categories of people.

10 THE COURT: You're saying I should get
11 another piece of paper out here.

12 MS. McLEOD: I don't know how far you've
13 gotten, but probably yes, Your Honor.

14 And as a caveat for this, this is sort of a
15 no contact with witnesses rule, and I just want to
16 preface this with saying that we have confirmed with
17 counsel ahead of time that they are aware of the
18 identities of these people.

19 THE COURT: Because you knew I was going to
20 ask that question.

21 MS. McLEOD: I did. I was here for your
22 prior proceeding.

23 THE COURT: Okay.

24 MS. McLEOD: So the condition as agreed
25 would be no contact with the following categories of

1 people; former employees of Frank, which is the
2 company name, Frank.

3 THE COURT: Right.

4 MS. McLEOD: Current employees of JPMorgan
5 Chase.

6 THE COURT: That's a big company, JPMorgan
7 Chase.

8 MS. McLEOD: Yes. We've discussed this
9 with defense counsel. And I have one more caveat at
10 the end of that as well.

11 The person identified in the complaint as
12 CC1.

13 THE COURT: All right. CC1.

14 MS. McLEOD: The person identified in the
15 complaint as Data Scientist 1.

16 THE COURT: And, Ms. Shah, you know who
17 that is?

18 MS. SHAH: Yes, we do, Your Honor.

19 THE COURT: Okay.

20 MS. McLEOD: And the final caveat on that
21 is there should be no communications. There should
22 be no communications about -- my understanding is
23 some people in these categories, there may be a
24 prior personal relationship. And so the agreement
25 with the parties is that if there's a communication

1 in the personal capacity, it should not be about --
2 there should be no discussion of the substance of
3 the case outside the presence of counsel. Oh, I'm
4 sorry, I missed one category. My colleague is
5 reminding me there's one other category, which is
6 former investors in Frank and former members of the
7 board of Frank.

8 THE COURT: Former investors and board
9 members of Frank.

10 MS. McLEOD: Yes, Your Honor.

11 THE COURT: All right. Now to which of
12 these -- I have five categories here. One, former
13 employees of Frank; two, former investors and/or
14 board members of Frank; three, current employees of
15 JPMorgan Chase. I have to renumber my list here.
16 Four, CC1; Five, Data Scientist 1.

17 To which categories does your carve out
18 apply? When I say "your carve out," I mean your
19 explanation that social or personal contact is
20 acceptable so long as there's no discussion of
21 matters relevant to this case?

22 MS. McLEOD: Let me discuss for one second.

23 (Pause in proceedings)

24 MS. McLEOD: Okay. Your Honor, we are
25 ready to answer your question.

1 So the carve out as to communications
2 limited to substance of the case, only in the
3 presence of counsel. That applies to the following
4 categories, board members and investors and former
5 employees of Frank.

6 THE COURT: All right.

7 MS. McLEOD: And I'm sorry, we have one
8 additional caveat, which is that technically the
9 defendant's mother and her mother's boyfriend fall
10 in the investor category. But the parties have
11 agreed that those two individuals, the defendant's
12 mother and her mother's boyfriend, can be excluded
13 from the condition altogether in order that she can
14 speak to her mother about the case, for example.

15 THE COURT: So let me say it back to you.
16 With respect to former employees of Frank, the
17 condition is that the defendant is to have no
18 communication with them related to this case except
19 in the presence of counsel. With respect to current
20 employees of JPMorgan Chase, the condition is the
21 defendant is to have no contact with them except in
22 the presence of counsel. With respect to former
23 investors and/or board members of Frank, but not
24 counting mom or mom's boyfriend, the condition is
25 that the defendant is to have no substantive

1 communication with them concerning this case except
2 in the presence of counsel. Mom and Mom's boyfriend
3 are unrestricted. And with respect to the two
4 remaining individuals identified as CC1 and Data
5 Scientist 1, the defendant is to have no
6 communication with them on any topic other than in
7 the presence of counsel.

8 MS. McLEOD: That's correct, Your Honor.

9 THE COURT: Okay. Let's move on.

10 MS. McLEOD: Almost done. And the final
11 condition is what's listed as number six on the
12 Pretrial services report, which is the defendant is
13 not to open any new bank accounts or lines of credit
14 without the approval of pretrial. And then the
15 final note is that the defendant can be released on
16 her own signature, all other conditions to be met
17 within two weeks.

18 THE COURT: All right. So let me recite
19 for the record what I understand the agreed upon
20 conditions of release to be. And then I will ask
21 the defendant if I've gotten them correct insofar as
22 she has agreed to these.

23 The defendant will be released on a bond in
24 the amount of \$2 million, which will be cosigned by
25 two financially responsible persons acceptable to

1 the U.S. Attorney's Office in the Southern District
2 of New York, and will be secured by the defendant's
3 residence in Florida.

4 The defendant's travel will be restricted
5 to the Southern and Eastern Districts of New York,
6 the Southern District of Florida, and points in
7 between for purposes of travel only.

8 The defendant will surrender her passports,
9 which she's already done, as I understand it, and
10 will make no new application for passports or
11 similar travel documents.

12 The defendant will be supervised as
13 directed by Pretrial services. The defendant will
14 be subject to a curfew at her residence, the exact
15 parameters of which will be set by Pretrial
16 services, and the curfew will be enforced by
17 location monitoring at the discretion of Pretrial
18 services.

19 The defendant will open no new -- wait one
20 second -- will not open any new bank accounts or
21 lines of credit without the approval of Pretrial
22 services. And the defendant will be subject to the
23 following restrictions on contact with other
24 individuals potentially relevant to this case.

25 As to CC1, Data Scientist 1, and current

1 employees of JPMorgan Chase, the defendant will have
2 no contact with individuals in those categories
3 outside the presence of counsel.

4 With respect to former employees of Frank
5 and former investors and/or board members of Frank
6 who are not mom or mom's boyfriend, the defendant
7 will have no communication with these individuals
8 concerning this case or facts relevant to this case
9 outside the presence of counsel.

10 There are no communication restrictions
11 with regard to the defendant's mother or the
12 mother's boyfriend. The defendant will be released
13 today upon her own signature. All remaining
14 conditions must be met within two weeks.

15 Let me ask the government first, is there
16 anything you want to add or clarify there?

17 MS. McLEOD: I'm sorry, Your Honor.

18 THE COURT: You weren't listening.

19 MS. McLEOD: I just wasn't sure if I missed
20 the PRB being secured by the Miami address.

21 THE COURT: That was in there. All right.

22 Ms. Shah, anything to add or clarify?

23 MS. SHAH: Yes, Your Honor, we're good.

24 THE COURT: All right.

25 Ms. Javice, do you understand the terms of

1 your release as I have just summarized them for you?

2 MS. McLEOD: Yes, ma'am.

3 THE COURT: You may be seated. Let me warn
4 you, Ms. Javice, that if you fail to appear in court
5 when due or if you violate any of the conditions of
6 your release, whether you consider these conditions
7 important or unimportant, I can assure you that the
8 government tends to consider all of them important,
9 so if you were to violate them, a new warrant would
10 be issued for your arrest.

11 You and those who cosign the bond could be
12 liable each for up to the full amount of the bond,
13 in this case, \$2 million. Not a trivial sum. And
14 you could be charged with a separate crime known as
15 bail jumping.

16 In addition, if you were to commit a new
17 offense while you are on release in this case, then
18 in addition to whatever sentence you would
19 ordinarily get for the new offense, you can be
20 sentenced to an additional term of imprisonment
21 because you were out on bail when you committed it.
22 And that additional term of imprisonment could be up
23 to ten years if the new offense is a felony. Up to
24 one year, if the new offense is a misdemeanor. And
25 that additional term would be imposed and executed

1 after and on top of any other sentence of
2 imprisonment is completed.

3 Do you understand what I have told you?

4 THE DEFENDANT: Yes, ma'am.

5 THE COURT: Ms. Shah, when shall I set the
6 preliminary hearing?

7 MS. SHAH: I think 21 days works for us,
8 Your Honor.

9 THE COURT: 21 days. That takes us to
10 April the 25th. You sure you don't want to waive to
11 the 30th day?

12 MS. SHAH: I'm sorry?

13 THE COURT: I expected you to say you
14 wanted to waive to the 30th day. I assume you have
15 a lot to talk about with the government. Up to you.

16 MS. SHAH: I think we're good with the 21.

17 THE COURT: You're good with the 21. All
18 right. So I'll set the preliminary hearing for
19 April the 25th. April the 25th, 2023.

20 Anything further from the government?

21 MS. McLEOD: No, Your Honor. Thank you.

22 THE COURT: Anything from the defense?

23 MS. SHAH: No, thank you, Your Honor.

24 THE COURT: Thank you. We will be
25 adjourned.

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C E R T I F I C A T E

I, Adrienne M. Mignano, certify that the foregoing transcript of proceedings in the case of United States of America v. Charlie Javice; Docket #23MJ2638 was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Adrienne M. Mignano
ADRIENNE M. MIGNANO, RPR

Date: April 5, 2023